

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

TZVIA WEXLER,

Plaintiff,

v.

**OFFICER CHARMAINE HAWKINS, et al.,
Defendants.**

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**Civil Action
No. 19-5760**

DEFENDANTS' STATUS REPORT

Defendants Charmaine Hawkins, James Koenig, and Kelly Keenan, by and through the undersigned counsel, hereby respectfully submit this status report pursuant to the Court's instruction on August 10, 2023, during a scheduled telephone conference. Specifically, this status report addresses Plaintiff's executed authorizations to release health information.

On March 23, 2021, United States Magistrate Judge Carol Sandra Moore Wells granted Defendants' Motion to Compel (ECF No. 18) and ordered "Plaintiff shall serve her medical records and expert reports, if any, from Dr. Ofra Sharabani and Dr. Philip Nimoityn within forty-five (45) days." (ECF No. 22).

On March 30, 2021, Defendants sought, and Plaintiff executed, two authorizations to release health information. Plaintiff executed authorizations to release health information for Thomas Jefferson University Hospital ("TJUH"), to include treatment by Dr. Phillip Nimoityn, (attached hereto as Exhibit A) and for Ofra Sharabani, a therapist and Plaintiff's sister-in-law (attached hereto as Exhibit B).

Because Plaintiff did not employ the therapeutic services of her sister-in-law in any official capacity, no health records or medical information related to Ofra Sharabani's treatment of Plaintiff exist. As such, Ms. Sharabani's office provided no records to Defendants in response

to Plaintiff's executed authorization.

Thomas Jefferson University Hospital Authorization

On August 10, 2023, the undersigned contacted the Thomas Jefferson University Hospitals, Inc. Health Information Management Department ("HIMD") at 215-955-6627 and spoke with a representative of the HIMD. The representative confirmed that the City of Philadelphia Law Department ("Law Department") sent the executed authorization to HIMD and HIMD received the executed authorization on April 28, 2021. HIMD handled the requests for TJUH records and Dr. Phillip Nimoityn's records separately. The HIMD representative further confirmed that in response to the request for Dr. Nimoityn's records, HIMD sent correspondence to Defendants' counsel on May 5, 2021, indicating that no records were found.

On May 11, 2021, HIMD sent correspondence to Defendants' counsel in response to the request for TJUH records. Per HIMD, the correspondence was a two-page record related to Plaintiff's June 12, 2019, admission at TJUH. Unfortunately, Defendants are not in possession of this two-page record, and it is unknown whether the correspondence was ever received by the Law Department. However, per HIMD, the two-page record does not relate to treatment provided to Plaintiff by Dr. Phillip Nimoityn, as no records related to Plaintiff's treatment by Dr. Nimoityn were found.

On August 10, 2023, Plaintiff's counsel represented that he intends to have Dr. Nimoityn testify as a fact witness, despite failing to identify Dr. Nimoityn as a witness in Plaintiff's pre-trial memorandum. (ECF No. 44). Further, though the Parties worked collaboratively to compile the Joint Exhibit List (ECF No. 45) filed on August 7, 2023, Plaintiff neglected to mention or include any health records, much less those of Dr. Nimoityn. Discovery closed on February 18, 2021. (ECF No. 14). Judge Wells, in granting Defendants' Motion to Compel, afforded Plaintiff

until May 7, 2021, to produce any medical records. Plaintiff neglected to do so.

On August 10, 2023, the undersigned contacted Plaintiff's counsel to inquire as to whether counsel possessed the Dr. Nimoityn records at issue. Plaintiff does not have the records, but now represents for the first time that the records can be found elsewhere and that Plaintiff is currently attempting to obtain the never-before-seen records just two weeks before the scheduled trial date and over a year after the close of discovery. (See August 10, 2023 Email, attached hereto as Exhibit C).

Respectfully submitted,

Date: August 10, 2023

/s/ Jonah Santiago-Pagán
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CERTIFICATE OF SERVICE

I hereby certify that on the date below, Defendants Charmaine Hawkins, James Koenig, and Kelly Keenan's Status Update Regarding Medical Authorizations, and this Certificate of Service were filed via the Court's electronic filing system and are available for downloading.

Respectfully submitted,

Date: August 10, 2023

/s/ Jonah Santiago-Pagán

Jonah Santiago-Pagán

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